

The Honorable Robert S Lasnik

JAMES MCDONALD
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Phone (425) 210-0614
In Pro Per

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re:)	NO.: C10-1952RSL
)	
JAMES MCDONALD)	
Plaintiff)	
v)	Plaintiff's First Motion to Compel to
ONEWEST BANK, FSB, <i>et al.</i> ,)	Produce
Defendants.)	NOTICE DATE: June 3, 2011
)	

COMES NOW, Plaintiff James McDonald, pursuant to Federal Rule of Civil Procedure 37, and submits this First Motion to Compel to Produce against Defendants OneWest, MERS and Northwest Trustee Services.

I. FACTS

1.1 On February 25, 2011, the Court Ordered the Initial Disclosures, joint Status Report and Early Settlement (Docket #40).

1.2 On March 21, 2011 Plaintiff and Counsel for the Defense met via telephonic conference and agreed to the Joint Status Report submitted on March 23rd by Plaintiff. In that conference both parties agreed in Section 5(d), "The parties agree to act reasonably and in good faith when propounding and responding to discovery requests. The parties do not anticipate at this time that any party will fail to cooperate in discovery". This document was electronically signed by both Plaintiff and counsel for the Defense.

1.3 On March 29, 2011, the Court issued a Minute Order Setting Trial Date and Related Dates including an order issuing an end to discovery proceedings on August 7, 2011.

1.4 On April 4, 2011, Plaintiff electronically served upon the Counsel for Defendants OneWest, MERS and Northwest Trustee Services the first request to produce (Exhibit A) as required by Federal Civil Rules of Procedure 34(b). Plaintiff understood by Fed. Civ. Rules of Procedure 34(b)(2)(A) that he must wait 30 days before taking any further action in regards to this request.

1.5 As of May 5, 2011, Plaintiff has received none of the items requested in the First Request to Produce nor has he received any objections to aforementioned request.

II. Argument

- 2.1 Defense has shown through their lack of production or objection to the Request to Produce in the time allotted by Rule 34(b)(2)(A) that they are unwilling to cooperate and act in good faith as Plaintiff and Defense agreed to in the Joint Status Report submitted on March 23rd, 2011.
- 2.2 Defense has knowingly and willfully delayed the process of the action before the Court by failing to respond, thereby creating additional burden to the Plaintiff in having to file this Motion and to the Court by necessitating the Court become involved in this matter due to the Defense's unwillingness to cooperate or even communicate with Plaintiff.
- 2.3 As Defense has failed to provide any objection in the time allotted by Rule 34(b)(2)(A) to the Request to Produce it appears to Plaintiff that there can be no objection heard in requiring the defense to produce all documentation Plaintiff has requested.

Conclusion

WHEREFORE, Plaintiff moves the Court to order the following:

1. The Court extend the mandated end of discovery from August 7 to September 7 in order for Plaintiff and Defense to fully complete any and all discovery needs.
2. The Court extend the deadline for amended pleadings from June 8, 2011 to August 8, 2011 to allow Plaintiff the time necessary to analyze and amend the complaint in accordance with what the discovery proceedings show.
3. The Court Order that any and all proceedings requested by the Defense and/or any parties not affiliated with the Plaintiff be stayed until the documentation has been produced as allowed by Rule 37(b)(2)(A)(iv).
4. The Court order Defendants OneWest, MERS and Northwest Trustee Services to produce all documentation requested in the First Request to Produce (Exhibit A) as the Defendants singularly and together failed to object to the request in the time allotted under Rule 34.

Proposed Order

A proposed order will be submitted together with this Motion to Compel to Produce.

Dated May 5, 2011

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/s/ James McDonald -
James McDonald
Pro Se

Certificate of Service

I hereby certify that on the 5th day of May, 2011 the foregoing was electronically filed with the Clerk of the Court using the ECF system, which sent notification and therefore served the following:

Heidi Buck
Routh Crabtree Olsen
13555 SE 36th ST Suite 300
Bellevue, WA 98006

/s/ James McDonald -
James McDonald
Pro Se